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UNCLAS SECTION 01 OF 02 HO CHI MINH CITY 000258

SIPDIS

STATE PASS TO USTR FOR EBRYAN  
USDOC FOR 3132/OIO/EAP/KELLEHER  
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TAGS: [ECON](#) [ETRD](#) [KIPR](#) [KTEX](#) [VM](#) [IPROP](#)  
SUBJECT: VIETNAM IPR ENFORCEMENT SUCCESS STORY: NIKE  
COUNTERFEITER LOSES BIG

REF: 02 HCMC 934

#### Summary

1. In an IPR enforcement success story, the Ho Chi Minh City Economic Police have wrapped up a case against a major counterfeiter of Nike footwear. Although fines relating to IPR violations were nominal, local authorities assessed substantial fines for tax evasion and confiscated supplies and production equipment. These fines and forfeitures amount to more than US\$160,000. Nike had high praise for the Economic Police, but faulted the People's Procurator in Ho Chi Minh City for dragging its feet.

#### Nike Counterfeiter Raided in Summer 2002

2. In July 2002 the Ho Chi Minh City Economic Police raided a workshop producing high quality counterfeit Nike shoes and other famous brands. The raid, as reported in reftel, resulted in the seizure of 23 truckloads of fake components, supplies, and production equipment. The case had been initiated at the request of Nike, which had been compiling information on this enterprise for about a year. This producer had been targeted by Nike because the operation appeared to be large and was producing high quality fakes. Interestingly, the case came to the attention of Nike through a tip from another (rival) counterfeiter.

#### Follow up reveals national network with large turnover

3. Following up on the raid, the police found a national distribution network with retail outlets in Hanoi, Haiphong, and Danang. The police traced bank transfers of funds indicating that the business generated revenues equivalent to at least US\$100,000 for the 18 months leading up to the raids. Even with all of this evidence, however, authorities decided that they could not prosecute this case as a criminal case. The raid netted 23 truckloads of production equipment and supplies, but only 47 pairs of counterfeit Nike shoes. Because the value of actual counterfeit products was so low, the police, along with the People's Procurator's Office, determined that the case had to be handled as an administrative matter. In an administrative case, local authorities only have the power to assess limited fines and confiscate equipment, product and supplies. In a criminal case, the case would be heard in court and fines could be higher and jail terms could be handed down.

#### Let the Punishment Fit the Crime

4. This did not stop local authorities from taking full advantage of their authority to assess administrative penalties in this case. These fines and forfeitures were spelled out in a decision from the local District People's Committee dated February 25, 2003. The actual fine based on IPR was very low- only VND 500,000 (about US\$325). The real penalties were assessed in other areas. The local Taxation Department imposed a penalty of VND 132,319,000 (about US\$8600) for back taxes and tax evasion.

5. The District People's Committee also authorized the permanent confiscation of the production equipment seized in the raid. This included:

- US\$26,000 worth of production equipment
- US\$19,500 worth of synthetic leather (2078 kilograms)
- US\$1200 worth of cement (ten tanks)

According to Nike, this equipment and the supplies will be sold and revenue turned over to the state budget.

6. The police were also granted authority to destroy components seized in the raid. These included:

- \$117,000 worth of fake Nike shoe components (completed uppers and unit soles) which could be used to make 15,000 pairs of fake Nike shoes.
- Additional components that could be used to manufacture counterfeits of other name-brand sport shoes.

7. These penalties are impressively large. They are even more impressive when considering that the individual who owned this operation is a relative of a powerful People's Committee chairman in a neighboring district. This appears not to have influenced the progress of the case. Nike reports, however, that the counterfeiter may be trying to set up another operation to produce counterfeit goods in another district in the city. Nike plans to

monitor developments closely and work with local police to follow up.

Comment

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18. While one such event does not indicate a sea change in the difficult IPR environment here, this case - in which a politically connected individual was made to pay dearly for flagrant production of counterfeit goods - is good news indeed. Nike praised the work of the Economic Police, although Nike's expert on counterfeiting stated that he felt the People's Procurator were slow to respond to the case. Nike has no illusions about the IPR climate in Vietnam, but hopes to build on this case for further cooperation with local authorities. Post will follow up with local authorities to compliment the Economic Police on their handling of this case.

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